AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, AMENDING SECTIONS 21A.25.210 (LOT DIVIDED BY ZONE BOUNDARY), 21A.50.225 (EROSION HAZARDS NEAR SENSITIVE WATER BODIES-SPECIAL DISTRICT OVERLAY), AND 21A.260 (LANDSLIDE HAZARD AREAS-DEVELOPMENT STANDARDS), OF THE SAMMAMISH MUNICIPAL CODE

WHEREAS, the City Council adopted the City’s Comprehensive Plan on September 16, 2003, and the City has enacted appropriate zoning consistent with the comprehensive plan; and

WHEREAS, the City Council adopted the Sammamish Municipal Code on October 7, 2003 and subsequent revisions have been made since that time; and

WHEREAS, development applications are reviewed for compliance with these regulations; and

WHEREAS, a number of code sections have presented particular challenges for applicants, and revisions could be made that would assist applicants and still afford sufficient environmental protections; and

WHEREAS, in accordance with WAC 365-195-620, a notice of intent to adopt the proposed municipal code amendments was received by the State of Washington Department of Community, Trade and Economic Development on June 9, 2008 allowing for a 60 day review and comment period; and

WHEREAS, a State Environmental Policy Act (SEPA) threshold determination for the proposed amendments was issued on July 14, 2008 (Lot Split by Zone Boundary) and December 15, 2008 in accordance with WAC 197-11-800(19); and

WHEREAS, the public process for the proposed amendments has provided for public participation opportunities; and included presentation to the Sammamish Planning Commission on June 5, 2008; and

WHEREAS, the Planning Commission considered the proposed amendments at a Planning Commission public hearing conducted on June 19, 2008 and continued on July 10, 2008; and

WHEREAS, the Planning Commission considered the public comment received and other information presented at the public hearing and forwarded their recommendation to the City Council; and
WHEREAS, the City Council considered the Planning Commission's recommendation, public comment, and other available information; and

WHEREAS, the City Council has considered the goals of GMA as set forth in RCW 36.70A.020 and determined that the proposed amendments attached to this ordinance reflect the appropriate balancing of the public interests served by the planning goals of the GMA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendments to the Municipal Code. The municipal code amendments set forth in Attachment “A” to this ordinance are hereby adopted.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 20th DAY OF JANUARY 2009.

CITY OF SAMMAMISH

[Signature]
Mayor Donald Gerend

ATTEST/AUTHENTICATED:

[Signature]
Melanie Anderson, City Clerk
Approved as to form:

Bruce L. Disend, City Attorney

Filed with the City Clerk: December 10, 2008
Public Hearing: December 16, 2008
First Reading: December 16, 2008
Public Hearing: January 20, 2009
Passed by the City Council: January 20, 2009
Date of Publication: January 28, 2009
Effective Date: February 2, 2009
Proposed Sammamish Municipal Code Amendments:
Erosion Hazard near Sensitive Water Body (EHNSWB) and Landslide Hazard Area – Code Amendment

Amendment List:
SMC 21A.50.225 - Erosion hazards near sensitive water bodies – Special district overlay.

The proposed code amendment requires that new single family homes and additions to existing single family homes infiltrate to the maximum extent feasible on the subject site. If 100% onsite infiltration is not feasible, drainage is subject individual lot evaluation to determine what methodology will minimize the potential landslides or erosion hazards, however a tightline is not always required.

The code amendment also provides a one time exemption to the critical area drainage requirements in the Landslide Hazard area and the EHNSWB overlay for additions to existing single family homes adding less than 200 square feet to the existing impervious surface area.

Plain text in the following pages represents existing regulatory language.
Strike-through text in the following pages represents the deletion of existing regulatory language.
Underlined text in the following pages represents the addition of new regulatory language.
The purpose of the erosion hazards near sensitive water bodies special district overlay is to provide a means to designate sloped areas posing erosion hazards that drain directly to lakes or streams of high resource value that are particularly sensitive to the impacts of increased erosion and the resulting sediment loads from development.

The department of community development shall maintain a map of the boundaries of the erosion hazard near sensitive water bodies overlay district.

The following development standards shall be applied, in addition to all applicable requirements of this chapter, to development proposals located within the erosion hazards near a sensitive water bodies special district overlay:

1. A no-disturbance area shall be established on the sloped portion of the special district overlay to prevent damage from erosion. The upslope boundary of the no-disturbance area lies at the first obvious break in slope from the upland plateau over onto the steep valley walls. The downslope boundary of the no-disturbance area is the extent of those areas designated as erosion or landslide hazard areas. The department shall maintain maps of the approximate location of the no-disturbance areas, which shall be subject to field verification for new development proposals.

2. Land clearing or development shall not occur in the no-disturbance area, except for the clearing activities listed in subsection (3)(b)(i) of this section. Clearing activities listed in subsection (3)(b)(i) of this section shall only be permitted if they meet the requirements of subsection (3)(b)(ii) of this section.

   a. Clearing activities may be permitted as follows:
   
      i. For single-family residences, associated landscaping and appurtenances on pre-existing separate lots;
      
      ii. For utility corridors to service existing development along existing rights-of-way including any vacated portions of otherwise contiguous rights-of-way, or for the construction of utility corridors identified within an adopted water, storm water, or sewer comprehensive plan; or
      
      iii. For streets providing sole access to buildable property and associated utility facilities within those streets.

   b. For Public Park Facilities including parking lots, restrooms or recreational structures and pedestrian trail/sidewalks.

   c. The clearing activities listed in subsection (3)(b)(i) of this section may be permitted only if the following requirements are met:
      
      i. A report that meets the requirements of SMC 21A.50.130 shall show that the clearing activities will not subject the area to risk of landslide or erosion and that the purpose of the no-disturbance area is not compromised in any way;
      
      ii. The clearing activities shall be mitigated, monitored and bonded consistent with the mitigation requirements applicable to critical areas;
      
      iii. The clearing activities are limited to the minimal area and duration necessary for construction; and
      
      iv. The clearing activities are consistent with this chapter.

   d. New proposed subdivisions, short subdivisions, public institutions, commercial site development permits, and binding site plans/development proposals for sites that drained predeveloped runoff to the no-disturbance zone shall evaluate the suitability of on-site soils for infiltration. All runoff from newly constructed impervious surfaces shall be retained on-site unless this requirement precludes a proposed subdivision or short subdivision from achieving 75 percent of the maximum net density as identified in Chapter 21A.25 SMC. When 75 percent of the maximum net density cannot be met, the applicant shall retain runoff on-site and a perforated tightline (Figure C.2.I, Appendix C, of the 1998 KCSWDM, as amended) shall be used to connect each lot to the central drainage system. The following drainage systems shall be evaluated, using the following sequential measures, which appear in order of preference:
      
      i. Infiltration of all site runoff shall be required in granular soils as defined in the King County Surface Water Design Manual (KCSWDM);
      
      ii. Infiltration of downspouts shall be required in granular soils and in soil conditions defined as allowable in the KCSWDM when feasible to fit the required trench lengths on-
site. All flows not going to an individual infiltration system shall be detained on-site using the most restrictive flow control standard; and

(iii) When infiltration of downspouts is not feasible, the applicant shall design a drainage system that will detain flows on-site using the applicable flow control standard and shall install an outlet from the drainage system designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; provided, that in no case shall development proposals generating more than 2,000 square feet of impervious surface create point discharges in or upstream of the no-disturbance or landslide hazard areas.

(d) New single family home construction or modifications or additions to existing single family homes on existing legal lots that will result in a total site impervious surface of more than 2,000 square feet shall provide a drainage design, using the following sequential measures, which appear in order of preference:

(i) Infiltration of all site runoff shall be required to the maximum extent technically feasible in soils conditions, consistent with the infiltration system design requirements of the KCWSDM;

(ii) For development proposals that cannot infiltrate all site runoff, impervious surfaces shall be infiltrated to the maximum extent technically feasible in soil conditions, consistent with the infiltration system design requirements of the KCWSDM;

(iii) For development proposals that cannot infiltrate all site runoff, the applicant shall design a drainage system that provides a drainage outlet designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; and,

(iv) Structural modification of, addition to or replacement of legally created single detached residences and improvements in existence before January 1, 2006 that do not increase the existing total footprint of the residence and associated impervious surface by more than 200 square feet over that existing before January 1, 2006 shall be exempt from the provisions of this section.

(ed) For the portions of proposed subdivisions, short subdivisions and binding site plans that cannot infiltrate runoff up to the 100-year peak flow, at least 25 percent shall remain undisturbed and set aside in an open space tract consistent with SMC 21A.50.160 through 21A.50.190. The open space tract shall be located adjacent to any required critical area tracts and shall be designed to maximize the amount of separation between the critical area and the proposed development. If no critical areas tracts are required, the open space tract shall be located to provide additional protection to the no-disturbance area.

(ef) For the portions of all subdivisions and short subdivisions that cannot infiltrate runoff up to the 100-year peak flow, no more than 35 percent of the gross site area shall be covered by impervious surfaces. For new subdivisions and short subdivisions, maximum lot coverage should be specified for subsequent residential building permits on individual lots.

(gf) If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to SMC 21A.50.070(2).

(hg) The director may modify the property-specific development standards required by this section when a critical areas study is conducted by the applicant and approved by the director which demonstrates that the proposed development substantially increases water quality by showing the following:

(i) Water quality on-site is improved through site enhancements and/or other innovative management techniques;

(ii) The development project will not subject downstream channels to increased risk of landslide or erosion; and

(iii) The development project will not subject the nearest sensitive water body to additional erosion hazards. (Ord. O2005-193 § 1)

21A.50.260 Landslide hazard areas – Development standards and permitted alterations. A development proposal containing, or within 50 feet of, a landslide hazard area shall meet the following requirements:
A minimum buffer of 50 feet shall be established from all edges of the landslide hazard area. The buffer shall be extended as required to mitigate a landslide or erosion hazard or as otherwise necessary to protect the public health, safety, and welfare.

The buffer may be reduced to a minimum of 15 feet if, based on a critical areas study, the City determines that the reduction will adequately protect the proposed development and other properties, the critical area and other critical areas off-site.

For single-family residential building permits only, the City may waive the critical areas study requirement if other development in the area has already provided sufficient information or if such information is otherwise readily available.

In addition to the general requirements for critical areas studies that may be required consistent with SMC 21A.50.130, the critical areas study for a landslide hazard area shall specifically include:

(i) A description of the extent and type of vegetative cover;
(ii) A description of subsurface conditions based on data from site-specific explorations;
(iii) Descriptions of surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
(iv) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
(v) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
(vi) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
(vii) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
(viii) Recommendations for building siting limitations; and
(ix) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

Unless otherwise provided herein or as part of an approved alteration, removal of any vegetation from a landslide hazard area or buffer shall be prohibited, except for limited removal of vegetation necessary for surveying purposes and for the removal of hazard trees determined to be unsafe by the City. The City may require the applicant to submit a report prepared by a certified arborist to confirm hazard tree conditions. Notice to the City shall be provided prior to any vegetation removal permitted by this subsection.

Vegetation on slopes within a landslide hazard area or buffer that has been damaged by human activity or infested by noxious weeds may be replaced with native vegetation pursuant to an enhancement plan approved by the City. The use of hazardous substances, pesticides, and fertilizers in landslide hazard areas and their buffers may be prohibited by the City.

Alterations to landslide hazard areas and buffers may be allowed only as follows:

A landslide hazard area located on a slope 40 percent or steeper may be altered only if the alteration meets the following standards and limitations:

(i) Approved surface water conveyances, as specified in the applicable City-adopted storm water requirements, may be allowed in a landslide hazard area if they are installed in a manner to minimize disturbance to the slope and vegetation;
(ii) Public and private trails may be allowed in a landslide hazard area subject to the standards and mitigations contained in this chapter, development standards in Chapter 21A.30 SMC, and requirements elsewhere in the SMC, when locating outside of the hazard area is not feasible;
(iii) Utility corridors may be allowed in a landslide hazard area if a critical areas study shows that such alteration will not subject the area to the risk of landslide or erosion;
(iv) Limited trimming and pruning of vegetation may be allowed in a landslide hazard area pursuant to an approved vegetation management plan for the creation and maintenance of views if the soils are not disturbed;
(v) Stabilization of sites where erosion or landsliding threatens public or private structures, utilities, roads, driveways or trails, or where erosion and landsliding threaten any lake, stream, wetland, or shoreline. Stabilization work shall be performed in a manner that causes the least possible disturbance to the slope and its vegetative cover; and
Reconstruction, remodeling, or replacement of an existing structure upon another portion of an existing impervious surface that was established pursuant to City ordinances and regulations may be allowed; provided:

(A) If within the buffer, the structure is located no closer to the landslide hazard area than the existing structure; and

(B) The existing impervious surface within the buffer or landslide hazard area is not expanded as a result of the reconstruction or replacement.

(b) A landslide hazard area located on a slope less than 40 percent may be altered only if the alteration meets the following requirements:

(i) The development proposal will not decrease slope stability on contiguous properties; and

(ii) Mitigation based on the best available engineering and geological practices is implemented that either eliminates or minimizes the risk of damage, death, or injury resulting from landslides; and

(c) Neither buffers nor a critical area tract shall be required if the alteration meets the standards of subsection (5)(b) of this section.

(6) New development proposals that will result in a total site impervious surface of more than 2,000 square feet shall provide a drainage design, using the following sequential measures, which appear in order of preference:

(a) Infiltration of all site runoff shall be required to the maximum extent technically feasible in soils conditions, consistent with the infiltration system design requirements of the KC SWDM;

(b) For development proposals that cannot infiltrate all site runoff, impervious surfaces shall be infiltrated to the maximum extent technically feasible in soil conditions, consistent with the infiltration system design requirements of the KC SWDM;

(c) For development proposals that cannot infiltrate all site runoff, the applicant shall design a drainage system that provides a drainage outlet designed using the best available science techniques to limit the risk of landslide or erosion to the no-disturbance area; and

(d) Structural modification of, addition to or replacement of legally created single detached residences and improvements in existence before January 1, 2006 that do not increase the existing total footprint of the residence and associated impervious surface by more than 200 square feet over that existing before January 1, 2006 shall be exempt from the provisions of this section.

Point discharges from surface water facilities in erosion hazard areas and onto or upstream from landslide hazard areas shall be prohibited for developments generating more than 2,000 square feet of impervious surface area, except if conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas downstream from the discharge.

(7) The following are exempt from the provisions of this section:

(a) Slopes that are 40 percent or steeper with a vertical elevation change of up to 20 feet if no adverse impact will result from the exemption based on the City's review of and concurrence with a soils report prepared by a geologist or geotechnical engineer; and

(b) The approved regrading of any slope that was created through previous legal grading activities.

(Ord. O2005-193 § 1; Ord. O99-29 § 1)